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9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2008-35

13 JOCELYN ROSETE
2524 Glen Ian Court
14 San Jose, CA 95148

FIRST AMENDED ACCUSATION

15 Registered Nurse License No. 431969

16 Respondent.
17

18 Complainant alleges:

19 PARTIES

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this First Amended
21 Accusation solely in her official capacity as the Executive Officer of the Board of Registered
22 Nursing, Department of Consumer Affairs.

23 2. On or about August 31, 1988, the Board of Registered Nursing issued
24 Registered Nurse License Number 431969 to Joselyn Rosete (Respondent). The Registered
25 Nurse License was in full force and effect at all times relevant to the charges brought herein and
26 expired on June 30, 2008, unless renewed.

27 JURISDICTION

28 3. This Accusation is brought before the Board of Registered Nursing

1 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
2 references are to the Business and Professions Code unless otherwise indicated.

3 4. Section 2761 of the Code states:

4 "The board may take disciplinary action against a certified or licensed nurse or
5 deny an application for a certificate or license for any of the following:

6 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

7 . . .

8 "(4) Denial of licensure, revocation, suspension, restriction, or any other
9 disciplinary action against a health care professional license or certificate by another state or
10 territory of the United States, by any other government agency, or by another California health
11 care professional licensing board. A certified copy of the decision or judgment shall be
12 conclusive evidence of that action.

13 5. Section 125.3 of the Code provides, in pertinent part, that the Board may
14 request the administrative law judge to direct a licentiate found to have committed a violation or
15 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
16 and enforcement of the case.

17 FIRST CAUSE FOR DISCIPLINE

18 (Denial of Licensure)

19 6. Respondent's license is subject to discipline under section 2761(a)(4) in
20 that on or about November 15, 2006, a denial action was taken by the Department of Health
21 Services (DHS) against her application for an Intermediate Care Facility/Developmentally
22 Disabled-Nursing license (ICF/DD-N). The circumstances are as follows:

23 7. On or about June 8, 2006, the California DHS, Licensing and
24 Certification's Centralized Application Unit received an application for Almond House
25 Intermediate Care Facility /Developmentally Disabled-Nursing (ICF/DD-N) license from
26 respondent. That application was reviewed, initially approved and forwarded to the San Jose
27 District Office on September 8, 2006.

28 8. On September 5, 2006, in a civil proceeding entitled *Cardillo v. The Tulip*

1 *Tree at San Rafael Alzheimer's Gracious Living, Inc.*, in Santa Clara County Superior Court,
2 Case No. 1-05-CV-037761, respondent was found liable for elder financial abuse in violation of
3 Welfare and Institutions Code section 15610.30 because she failed to repay a \$100,000.00 loan
4 given to her by plaintiff Cardillo. Final judgment was issued on October 25, 2006. Respondent
5 was ordered to pay plaintiff Cardillo \$66,000.00 plus prejudgment interest in the amount of
6 \$25,528.96 and attorney's fees and costs of suit.

7 9. On November 15, 2006, the Department of Health Services (DHS) denied
8 respondent's application to operate Almond House ICF/DD-N because of the above-mentioned
9 judgment against her for elder financial abuse. In addition, DHS prohibited respondent from
10 reapplying for an ICF/DD-N license or for any category of health care facility license.

11 SECOND CAUSE FOR DISCIPLINE

12 (Revocation of Health Care License)

13 10. Respondent's license is subject to discipline under section 2761(a)(4) in
14 that on or about February 28, 2008, respondent entered into a stipulation with the California
15 Department of Social Services to revoke respondent's license to operate adult residential
16 facilities at 263 Bangor Avenue, San Jose, CA, and at 5092 Chesbro Avenue, San Jose, CA,
17 and/or a residential care facility for the elderly at 1360 Park Pleasant Circle, San Jose, CA, and to
18 be decertified as a certified administrator. The circumstances are as follows:

19 11. On or about July 9, 2007, pursuant to Health and Safety Code sections
20 1550 (c), 1558(a)(2), 1569.50(c), and 1569.58(a)(2), the California Department of Social
21 Services (CDSS) filed an Accusation against respondent alleging financial abuse of an elder (a
22 loan from an elder in the sum of \$100,000 was obtained, and, wrongfully and in bad faith,
23 \$66,000 of it was not repaid) within the meaning of Welfare and Institutions Code section
24 15610.30.

25 12. On or about February 12, 2008, respondent entered into a stipulation with
26 the CDSS to revoke respondent's license to operate adult residential facilities at 263 Bangor
27 Avenue, San Jose, CA, and at 5092 Chesbro Avenue, San Jose, CA, and/or a residential care
28 facility for the elderly at 1360 Park Pleasant Circle, San Jose, CA, and to be decertified as a

1 certified administrator. On or about February 28, 2008, the CDSS adopted the stipulation as its
2 Decision in the matter.

3 PRAYER


4 WHEREFORE, Complainant requests that a hearing be held on the matters herein
5 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

6 1. Revoking or suspending Registered Nurse License Number 431969, issued
7 to Jocelyn Rosete;

8 2. Ordering Jocelyn Rosete to pay the Board of Registered Nursing the
9 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
10 Professions Code section 125.3;

11 3. Taking such other and further action as deemed necessary and proper.

12
13 DATED: 7/31/08

14 
15 RUTH ANN TERRY, M.P.H., R.N.
16 Executive Officer
17 Board of Registered Nursing
18 Department of Consumer Affairs
19 State of California
20 Complainant

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Rosete amended acc.wpd
rmm, 07/30/08